



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Reynolds Bros. Lumber and Logging Co.--
Reconsideration
File: B-234740.2
Date: May 16, 1989

DIGEST

Prior decision is affirmed on reconsideration where dismissal was due to protester's failure to file timely comments on agency report; protester's alleged unawareness of comment filing requirements is not a basis for an exception to timeliness requirements, since protester is charged with constructive notice of Bid Protest Regulations through their publication in Federal Register and Code of Federal Regulations and, in any event, had actual notice of the requirements from standard protest acknowledgment letter.

DECISION

Reynolds Bros. Lumber and Logging Co. requests reconsideration of our May 1, 1989, dismissal of its protest in connection with the Swift Creek II timber sale (contract No. 037180) for the Mark Twain National Forest in Missouri. The sale was conducted by the Forest Service, United States Department of Agriculture. We dismissed Reynolds' protest for failure to meet mandatory requirements of our Bid Protest Regulations, because the protester did not file written comments on the agency's administrative report, or a written statement of continued interest in the protest, within 10 working days of the due date for receipt of the report. We affirm the dismissal.

Reynolds filed its protest in our Office on March 9, 1989. On that same day, we sent Reynolds a standard acknowledgment notice informing the protester that, within 10 working days of the due date for the agency's administrative report on the matter, the protester must submit written comments responding to the report or requesting that the case be decided on the existing record. The notice further advised that the due date for the agency report was April 13, and that unless we heard from the protester within 10 working days of that date we would dismiss the protest. These

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requirements also are set forth in our Bid Protest Regulations, which specifically provide that a protest will be dismissed if the protester does not submit its comments, or a statement of continuing interest, within 10 working days of receiving the report, and that we will assume receipt on the scheduled report due date unless we are advised otherwise by the protester. 4 C.F.R. § 21.3(k) (1988). Agriculture timely filed its report with our Office on April 13. On May 1, not having heard from Reynolds within the requisite period, we dismissed the protest.

In its request for reconsideration, Reynolds states that it interpreted our acknowledgment notice to mean that the protest had to be filed within 10 working days, and that, having already filed its protest, it concluded that nothing further had to be done. Reynolds asks that we reconsider the dismissal and review its protest on the merits.

Notwithstanding Reynolds' alleged misunderstanding, our standard protest acknowledgment clearly put Reynolds on notice that its protest would be dismissed if the firm did not contact our Office within 10 working days after the report due date. We see nothing in the notice that reasonably would lead to Reynolds' interpretation, and Reynolds has provided no explanation in this regard.

In any case, the filing requirements in our Regulations, prescribed under the authority of the Competition in Contracting Act of 1984 (CICA), are designed to enable us to comply with the statute's mandate that we resolve bid protests expeditiously. 31 U.S.C. § 3554 (Supp. IV 1986); Applied Systems Corp.--Reconsideration, B-234159.2, Mar. 28, 1989, 89-1 CPD ¶ 358. It has long been our position that since our Regulations are published in the Federal Register and the Code of Federal Regulations, protesters are on constructive notice of their contents. Applied Systems Corp.--Reconsideration, B-234159.2, Mar. 28, 1989, 89-1 CPD ¶ 358. A protester's professed lack of knowledge of the requirements of these published Regulations is not a basis for waiving the requirements. Id.; All Destinations, B-233505.3, Dec. 29, 1988, 88-2 CPD ¶ 640. Thus, even had Reynolds not received our acknowledgment notice at all, we would consider Reynolds to have been on constructive notice of the April 13 report due date and of the requirement that it contact our Office within 10 working days thereafter.

Bid protests are serious matters which require effective and equitable procedural standards to assure both that parties will have a fair opportunity to present their cases, and that protests can be resolved in a reasonably

speedy manner. Applied Systems Corp.--Reconsideration,
B-234159.2, supra. Since Reynolds had the opportunity to
express timely continued interest in the protest, our
reopening of the file would be inconsistent with our purpose
of providing a fair opportunity for protesters to have their
objections considered without unduly disrupting the
procurement process. Id.

The dismissal is affirmed.



James F. Hinchman
General Counsel